

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY SMITH,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO 07-1397
) Judge Nora Barry Fischer
) Magistrate Judge Caiazza
JOY FLOWERS CONTI, et al.)
)
Defendants.)

MEMORANDUM ORDER

Anthony Smith's ("Smith" or "the Plaintiff") Complaint filed pursuant to 42 U.S.C. §1983 was filed along with a petition to proceed in forma pauperis on October 16, 2007, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report, filed on November 13, 2007, recommended that the action be dismissed without prejudice due to the Plaintiff's failure to either pay the filing fee, or provide a proper documentation for his in forma pauperis status. The parties were allowed ten days from the date of service to file objections. The Plaintiff's objections were filed on November 21, 2007.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following ORDER is entered:

AND NOW, this 13th day of December, 2007,

IT IS HEREBY ORDERED that this action is DISMISSED WITHOUT PREJUDICE.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 3), dated November 13, 2007, is adopted as the opinion of the court.

s/Nora Barry Fisher

Nora Barry Fisher

United States District Court Judge

CC:

ANTHONY SMITH, 07-09-107
Luzerne County Correctional Facility
99 Water Street
Wilkes-Barre, PA 18702